IN THE HIGH COURT OF UTTARTANCHAL
AT NAINITAL

Criminal Misc. Application No. 528 of 2005

1. Abhishek Agnihotri @ Viccy
   S/o Amar Nath Agnihotir
   R/o House No. 397
   Near Blue Wax School
   Ramnagar Roorkee
   District Haridwar
2. Kuldeep Saraswat @ karan
   S/o Keshav Das
   R/o Shivpuri Aligarh and
   Presently working at
   UTI-II N 30Ambedkar Road
   Nehru Nagar, Ghaziabad

… Applicants.

Versus

1 State of Uttaranchal
2. Judicial Magistrate Roorkee
3. Smt. Manorama Sharma
   W/o D.R. Sharma
   R/o Mohalla Kashipuri Roorkee
   P.S. Gangnahar
   District Haridwar .. Respondents

Sri Navneet Kaushik, learned counsel for the applicants
Sri S.P.S. Panwar, learned Senior Advocate assisted by Sri M.S. Tyagi, learned counsel for the respondent no. 3

Hon'ble B.C. Kandpal, J

This petition under Section 482 Cr.P.C. has been filed by the applicants for quashing the chargesheet dated 10.06.2005 and summoning order dated 02.07.2005 passed by Judicial Magistrate, Roorkee in case No. 1367 of 2005 under Sections 452, 504, 506, 467, 468 and 471 I.P.C. State Vs Abhishek Agnihotri & another.

Brief facts of the case are that the First Information Report was lodged by the respondent No. 3 against the applicants on 09.02.2005 and the police after investigating the matter submitted the chargesheet in the case. After submission of the chargesheet, the learned Magistrate vide

Order dated 02.07.2005 issued summons to the petitioners for facing the trial under Sections 452, 504, 506, 467, 468 and 471 I.P.C.

Feeling aggrieved by the aforesaid submission of the chargesheet as well as the summoning order passed by the Judicial Magistrate, Roorkee, this petition has been filed by the applicants.

I have heard Sri Navneet Kaushik, learned counsel for the petitioners as well as Sri S.P.S. Panwar, learned Senior Counsel assisted by Sri M.S. Tyagi, learned counsel for the respondent No. 3, learned A.G.A. and perused the record.

The contention raised by the learned counsel for the petitioners relate to the factual aspect and that can be seen and assessed by the trial court. I am not suppose to give a premature decision in a case when the evidence has not been colleted and produced before the court and the issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material.

I do not find any special feature in this case to say that it is not expedient and not in the interest of justice to permit the prosecution to continue. On a plain reading of the order passed by the Magistrate issuing summons to the petitioners, it appears that a prima facie case is made out at that stage.

No detail reason for summoning order was needed and the proceeding cannot be disturbed on that count.

Learned counsel for the petitioners has argued that the F.I.R. filed by the respondent No. 3 is mala fide and in case, if the matter proceeded further before the trial court that would certainly amounts to abuse of process of law.

I do not find any substance in the argument advanced by the learned counsel for the petitioners.

The Hon'ble Apex Court in ***2005 Supreme Court Cases (Criminal) 383, Zandu Pharmaceutical Works Ltd. Vs Mohd. Sharaful Haque*** has held that when an information is lodged at police station and an offence is

Registered then the mala fide of the informant would be of secondary importance. It is the material collected during the investigation and the evidence lead in court, which decide the fact of accused person. Therefore, the allegation of mala fidies against the informants are of no sequence and cannot be themselves be basis for quashing the proceedings.

I do not find any abuse of process of court, which may call for any interference by way of exercising the inherent power under Section 482 Cr.P.C.

Accordingly, the petition under Section 482 Cr.P.C. is dismissed in limine.

(B.C. Kandpal, J.)

14.09.2005
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